

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

May 23, 2022

Lyle W. Cayce  
Clerk

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No. 21-51195  
CONSOLIDATED WITH  
No. 21-51206  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ANTONIO MOLINA-RODRIGUEZ,

*Defendant—Appellant.*

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Appeals from the United States District Court  
for the Western District of Texas  
USDC No. 4:15-CR-117-2  
USDC No. 4:21-CR-549-1

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Before DAVIS, JONES, and ELROD, *Circuit Judges.*

PER CURIAM:\*

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-51195  
c/w No. 21-51206

Antonio Molina-Rodriguez appeals his conviction and sentence for illegal reentry into the United States and also appeals the judgment revoking his supervised release and imposing additional prison time. He has not briefed, and has thus abandoned, any argument in the revocation case. *See United States v. Still*, 102 F.3d 118, 122 n.7 (5th Cir. 1996). However, Molina-Rodriguez argues that his illegal reentry sentence of 115 months and three years of supervised release exceeded the statutory maximum because the enhanced penalty provisions of 8 U.S.C. § 1326(b) are unconstitutional. He concedes that this issue is foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), but he seeks to preserve the issue for future review and has moved for summary disposition.

As Molina-Rodriguez concedes, the issue he raises is foreclosed by *Almendarez-Torres*. *See United States v. Pervis*, 937 F.3d 546, 553-54 (5th Cir. 2019). Because summary disposition is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), Molina-Rodriguez's motion for summary disposition is GRANTED, and the judgments of the district court are AFFIRMED.